

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Marjorie Cohen	Team: Team # 4	CCRB Case #: 200506787	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/14/2005 5:35 PM	Location of Incident: Claremont Parkway and Park Avenue, the Bronx	Precinct: 42	18 Mo. SOL 12/14/2006	EO SOL 12/14/2006	
Date/Time CV Reported Thu, 06/16/2005 3:22 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/16/2005 3:22 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Joaquin Morales	02995	921608	PSA 7
2. POM Corey Jones	30756	921445	PSA 7
3. Officers			
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM David Bailey	17645	932289	042 PCT
2. POM Ruben Alvarez	01465	929624	042 PCT
3. POM Claudio Almonte	26773	914630	PSA 7
4. POF Sylvia Cruz	00278	921878	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.POM Corey Jones	Force: PO Corey Jones used physical force against § 87(2)(b)	
B.SGT Joaquin Morales	Force: Sgt. Joaquin Morales used physical force against § 87(2)(b)	
C. Officers	Force: Officers used physical force against § 87(2)(b)	
D. An officer	Discourtesy: An officer spoke rudely to § 87(2)(b)	
E. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	

### Synopsis

On June 16, 2006, § 87(2)(b) contacted the CCRB by telephone to file his complaint. According to § 87(2)(b) he had stopped his vehicle because of a reaction he was having to his low blood sugar. While he was in his vehicle, officers responded to the location because of a call bystanders made. § 87(2)(b) was first approached by Sgt. Joaquin Morales and PO Corey Jones. § 87(2)(b) stated that when he exited his vehicle, Sgt. Morales and PO Jones attempted to handcuff him by grabbing his wrists. § 87(2)(b) was admittedly disoriented, profusely sweating and from his behavior, could have appeared to be drunk. He said that he continuously physically and verbally resisted arrest and that Sgt. Morales and PO Jones then pushed him to the ground. (allegation A and B) On the ground, an unidentified officer put a knee in his back, pushed his head into the ground and also told him to “shut up.” (allegation C and allegation D) After he was handcuffed, he was placed into an ambulance and taken to § 87(2)(b). Inside the hospital he said that an unidentified officer threatened to pepper spray him (allegation E) before he was treated for hypoglycemia. He left the hospital after his blood sugar returned to a normal level.

§ 87(2)(g)

§ 87(2)(g)

### Summary of Complaint

§ 87(2)(b) told the EMTs that “he did not do anything” and to “leave (him) alone.” Once at the hospital, § 87(2)(b) told his doctor that he was a diabetic, felt hypoglycemic and needed sugar. He also complained of an abrasion to his right elbow.

The following incident occurred on June 14, 2005 at approximately 5:35 PM in the vicinity of 170<sup>th</sup> Street and Park Avenue in the Bronx. According to the complainant, § 87(2)(b) he pulled his car over because he is a diabetic and was having a reaction to his low blood sugar. He went to the back seat of his mini-van to look for candy and also began to walk around outside his vehicle. During this time, bystanders began to approach § 87(2)(b) asking him if he was all right, to which he replied that he needed some sugar. § 87(2)(b) got back into his vehicle, but left the back door open. Shortly after, police officers and an ambulance arrived on the scene, which § 87(2)(b) believed that one of the bystanders called for. When the police officers arrived, they approached § 87(2)(b) who was in the back seat of his vehicle with the back door open. § 87(2)(b) stated that there were two patrol cars and four officers on the scene, two of whom were in plainclothes and two of whom were in uniform. § 87(2)(b) was approached first by the two plainclothes officers. He described one as a 5’8, white, male with “salt and pepper” hair weighing about 160lbs who had a moustache and was wearing a black vest (PO1). § 87(2)(b) stated that PO1 asked what was going on and that he tried to explain to him that he had low blood sugar and was searching for candy. § 87(2)(b) stated that he did not interact with the other officers. He believed that one of the officers’ names was “Ayalla”, which he said he obtained from reading the officer’s nameplate. § 87(2)(b) described PO “Ayalla” as a Hispanic male with medium skin tone, black hair, who was at least 5’10, around 160 pounds and in uniform. § 87(2)(b) described the third officer (PO2) as a plainclothes, white, male with brown hair, who was approximately 5’8 with a stocky build.

When these officers approached him, § 87(2)(b) exited his vehicle, at which time they attempted to handcuff him. § 87(2)(b) stated that PO “Ayalla” grabbed his right wrist with his two hands and was trying to put his hand behind his back, while § 87(2)(b) was explaining what was wrong with him. PO1 and PO2 were on his left side and grabbed his left wrist in order to help PO “Ayalla”, which is when he realized the officers were trying to arrest him. He said that PO1 asked him for his name, address, social security number and the year, all of which he properly answered. § 87(2)(b) stated

that he was resisting because he did not understand why this was occurring since he had done nothing wrong. He did not remember what the officers were saying since he was doing most of the talking. § 87(2)(b) stated that he was asking why he was being arrested, what was going on and why they were handcuffing him. He stated that he continued to resist being handcuffed and that the officers continued to attempt to pull his arms behind his back. While this was occurring, § 87(2)(b) stated that his friend, § 87(2)(b) arrived and explained to an officer that § 87(2)(b) was a good man. § 87(2)(b) stated that an unidentified officer told § 87(2)(b) to “shut up” and leave the scene. However, § 87(2)(b) stated that § 87(2)(b) remained nearby and observed everything. § 87(2)(b) said that all of this occurred before he was “taken to the ground.”

§ 87(2)(b) stated that PO “Ayalla,” PO1 and PO2 pushed him to the ground, although he could not recall exactly how it occurred. He believed that PO1 or PO2 “took him to the ground.” He stated that his face was on the ground and that either PO1 or PO2’s knee was in his back. He sustained a bruise to his left elbow and thus assumed that it hit the ground. § 87(2)(b) stated that his head was also pushed into the ground while he was being handcuffed. He stated that two pairs of handcuffs, which were linked, were placed on him, though he did not know who handcuffed him because he was on the ground, face down. He stated that the officers squeezed the handcuffs so tightly that they left marks, especially on his left wrist. § 87(2)(b) stated that he started screaming at the officers to loosen the handcuffs because they were cutting off his circulation. He stated that he called the officers “motherfuckers” and that PO “Ayalla” told him to “shut up.” § 87(2)(b) said that PO “Ayalla” was very rude, though PO1 and PO2 were not. After PO “Ayalla” and PO1 or PO2 lifted him up by his handcuffs, they walked him to the ambulance. § 87(2)(b) was then taken to § 87(2)(b) but did not recall if any of the officers were in the ambulance with him. However, he did encounter the officers at the hospital. § 87(2)(b) stated that there was a female officer he had not seen before, whom he believed was partnered with PO “Ayalla.” PO “Ayalla” undid the handcuffs at the instruction of § 87(2)(b)’s doctor, § 87(2)(b). § 87(2)(b) stated that when the handcuffs were released he stood up in front of PO “Ayalla” who began to grab and shake his pepper spray. § 87(2)(b) said, “Go ahead. Spray me. Then you’ll have a reason to arrest me because I’m gonna bust your ass.” He continued to yell, “This is how the police academy trains you? It could have been your mother, your brother, your girlfriend and this is how you would want them to be treated?” After § 87(2)(b) gave § 87(2)(b) food, the officers left. § 87(2)(b) has never seen these officers again.

§ 87(2)(b) stated that he lost feeling in his left index finger, thumb and wrist, which, at the time of the interview, remained a problem. He also sustained a scratch on his head and right elbow and marks on both of his wrists because the handcuffs were too tight. There was a bruise on his left elbow that was still visible at the time of the interview.

§ 87(2)(b) also stated that he asked his friend, § 87(2)(b) to drive his car to another friend’s house and that when he did so, his cell phone and charger were gone. § 87(2)(b) believes the officers took them. He also stated that the officers locked his car keys in his car and that his friend entered his car through the back window, which was open. § 87(2)(b) stated that he never inquired about it and simply bought a new phone.

It should be noted that § 87(2)(b)’s blood sugar level was 62 at the hospital, which means that it was lower during the interaction on the street. Thus, he was disoriented. He also stated that it could have appeared to bystanders that he was drunk or on drugs when he was on the street because he was so disoriented and foggy. § 87(2)(b) also believed that a nurse witnessed the pepper spray incident and any other remarks made at that time.

When § 87(2)(b) viewed photographs, he said that officer two in photo array one was present during the incident, but did not do anything to him. He said that officer two was also present at the hospital and had a conversation with the male officer. In photo array four, § 87(2)(b) thought that PO Ruben Alvarez threatened him with pepper spray and was involved in the handcuffing. He added that he believed his name was “Alvarez” and thought he was the subject officer. § 87(2)(b) stated that in photo array five officer one was possibly the officer who assisted in handcuffing him; he also believed that

PO David Bailey was present during the handcuffing, though believed that the officer in the photograph looked younger than the officer at the incident.

### Results of Investigation

#### Witness Statements

EMT § 87(2)(b)

§ 87(2)(b) # § 87(2) worked tour 2, 10x6, in ambulance # 17x ray with his partner, § 87(2)(b)

On June 14, 2005 at approximately 5:35PM, EMT § 87(2)(b) of the FDNY responded to a call for assistance at the corner of Claremont Parkway and Park Avenue in the Bronx. § 87(2)(b) believed that the call came from the police department, though he was unsure. § 87(2)(b) stated that when he arrived on the scene, § 87(2)(b) was handcuffed sitting on the sidewalk. § 87(2)(b) stated that there were about four to five officers on the scene, though he was unable to identify any of them. § 87(2)(b) said that § 87(2)(b) was yelling, he believed about removing the handcuffs, though § 87(2)(b) was uncertain. § 87(2)(b) did not recall any interactions between the officers and § 87(2)(b) except the comments § 87(2)(b) was making about removing the handcuffs. § 87(2)(b) also believed that he was only handcuffed with one pair of handcuffs and that he was not restrained in any other manner. § 87(2)(b) also stated that § 87(2)(b) appeared very combative and argumentative and that § 87(2)(b) spit in his face when he and the other EMTs attempted to lift him onto the stretcher. § 87(2)(b) said that he and his partner, § 87(2)(b) were two of the EMTs that responded and could not recall the other two EMTs. After putting § 87(2)(b) onto the stretcher, § 87(2)(b) did not have further interactions with the patient's care as he was driving the ambulance that day.

§ 87(2)(b) stated that he did not see any injuries on § 87(2)(b) and was not aware of any injuries for which he was treated. § 87(2)(b) is unaware if the hospital discovered any injuries and stated that he did not treat § 87(2)(b) for anything on the scene. § 87(2)(b) stated that they transported § 87(2)(b) to § 87(2)(b). § 87(2)(b) stated that this incident lasted no more than 10 minutes.

EMT § 87(2)(b)

EMT § 87(2)(b) # § 87(2) worked a 10x6 tour with his partner § 87(2)(b)

On June 14, 2005, at approximately 5:35 PM, EMT § 87(2)(b) responded to a request for assistance on Claremont Parkway and Park Avenue. § 87(2)(b) believed that the call he received regarded an unconscious person. When EMT § 87(2)(b) arrived on the scene, § 87(2)(b) was sitting on the sidewalk in handcuffs. § 87(2)(b) said that § 87(2)(b) appeared to be alert and conscious and seemed aware of what was occurring. § 87(2)(b) believed that there were about four to six officers on the scene, though he could not identify any of them. § 87(2)(b) stated that § 87(2)(b) stated that he was a diabetic. § 87(2)(b) stated that § 87(2)(b) was resistant and uncooperative throughout the whole incident, saying that § 87(2)(b) refused to answer general informational questions. § 87(2)(b) was also arguing with the officers about being handcuffed, though he could not recall specifically what § 87(2)(b) said. The Ambulance Call Report was presented to § 87(2)(b) who stated that it indicated that § 87(2)(b) was transported on a stretcher and that § 87(2)(b) was stable and behavioral, alert and oriented. § 87(2)(b) had also stated that he had written down that the patient refused to have his pulse and blood pressure taken and did not want treatment.

§ 87(2)(b) did not notice any injuries on § 87(2)(b) but stated that § 87(2)(b) was complaining about his wrists and hands. § 87(2)(b) was transported to § 87(2)(b) where § 87(2)(b) did not have further contact with § 87(2)(b).

EMT § 87(2)(b)

EMT § 87(2)(b) had difficulty remembering this incident. Although she read through the Ambulance Call Report that she had prepared and was given a brief synopsis of the incident, she still had a lot of difficulty remembering details and provided differing statements before properly recalling the incident. She said that when she and her partner, EMT § 87(2)(b), arrived on the scene, § 87(2)(b) was sitting handcuffed on the street corner with two officers standing right next to him. EMT § 87(2)(b) said that he was talking “nonsense.” She and EMT § 87(2)(b) asked him if he knew the date, the year, where he was, how he got to be like he was, but he did not clearly answer the questions. He did say that he was a diabetic and not on any drugs. EMT § 87(2)(b) said that she thought he was intoxicated because she smelled alcohol on his breath. EMT § 87(2)(b) also said that § 87(2)(b) said “fuck you” to EMT § 87(2)(b) and told him that he was fat. She also said that § 87(2)(b) stated that it was not the first time this happened to him, but that he had not done anything wrong. The officers helped § 87(2)(b) stand up as they and EMT § 87(2)(b) attempted to put him onto the stretcher. § 87(2)(b) sat on the stretcher, which was conformed to be like a chair, where he continued to wiggle his body and wrists; he also was sweating profusely. He attempted to kick EMT § 87(2)(b) who then pushed him right into the ambulance. Inside the ambulance, § 87(2)(b) continued to move around and yell, though EMT § 87(2)(b) said that the officer in the ambulance did not respond to him. EMT § 87(2)(b) was unable to obtain § 87(2)(b)'s vitals because he was so combative. She stated that she did not see any injuries on him and that he only complained about his handcuffs. Inside § 87(2)(b), she never saw an officer threaten § 87(2)(b) with pepper spray. After the doctors arrived, she left the hospital.

§ 87(2)(b)

§ 87(2)(b) was driving home on Claremont Parkway with her friend § 87(2)(b), when she noticed a vehicle stopped at the red light. When the light changed to green, she pulled along side the vehicle and noticed a man lying down on the front seat with his left leg hanging out of the open driver's door. She then called 911 and explained the situation. She thought this man, later determined to be § 87(2)(b) was sick so she parked her vehicle at which time she and § 87(2)(b) approached the vehicle. She asked him if he was okay and he just smiled and nodded. § 87(2)(b) said that § 87(2)(b) started laughing and making faces, so she and § 87(2)(b) stepped back and waited for the police. She said though, that she did not notice any physical injuries on § 87(2)(b) and said that he was very sweaty.

Three police officers arrived about two minutes later in an unmarked vehicle. PO1 (male, plainclothes, 6', 180lbs, possibly white) approached § 87(2)(b) at the driver's side and PO 2 (male, Hispanic, plainclothes, shorter than PO1, medium build) and PO3 stood on the sidewalk. She and § 87(2)(b) were standing at the passenger's door of § 87(2)(b)'s vehicle, which she opened. § 87(2)(b) said that PO1 asked § 87(2)(b) if he was okay and if he could hear him. After § 87(2)(b) nodded yes, PO1 asked him if he had any weapons or was on any medication and then asked him to get out of the vehicle. § 87(2)(b) stated that § 87(2)(b) seemed to be in a “different world” when PO1 spoke to him as he was smiling, laughing and sweating profusely. When § 87(2)(b) got out of the car, he was a little unstable so PO1 put his hand on § 87(2)(b)'s shoulder and guided him to the sidewalk. When they got to the sidewalk, § 87(2)(b) who remained by the vehicle a couple of feet away, said that § 87(2)(b) swung at PO1 though he did make contact with him. She said that § 87(2)(b) also started jumping up and down as if was preparing to fight. All of the officers repeatedly told § 87(2)(b) to calm down; PO1 identified himself as a police officer and said that he was there to help. Then § 87(2)(b) attempted to swing at PO1 again, at which time PO1 grabbed § 87(2)(b)'s right forearm and pulled it behind his back. PO2 attempted to grab § 87(2)(b)'s left arm and pull it behind his back so that he could be handcuffed. As this was happening the officers were guiding him to the ground; § 87(2)(b) stated that § 87(2)(b) did not simply fall to the ground. § 87(2)(b) believed that PO1 handcuffed § 87(2)(b) but was not certain. She said that only one pair of handcuffs was used and that § 87(2)(b)'s hands were never stuck underneath his body. She said that during this § 87(2)(b) was mumbling and cursing, though she could not understand what he was saying. She said that the police guided him in a “gentle” manner to the ground where he lay face down. On the ground, she said that § 87(2)(b) was moving his legs back and forth, though she does not know if any officers held his legs down. She said though, that he did not contact anyone. She did not hear any officer use any profanity toward § 87(2)(b). § 87(2)(b) said that

after § 87(2)(b) was handcuffed, she asked the officers if everything was all right and left with § 87(2)(b). She said that PO3 never had physical contact with § 87(2)(b).

She never saw additional officers arrived on the location and said that § 87(2)(b) remained on the ground when she left. She never saw a friend or bystander approach the location. § 87(2)(b) never saw an officer go into § 87(2)(b)'s car, except when he first approached in the beginning, and never saw an officer remove a cell phone or any property from the vehicle. She never saw an officer push § 87(2)(b)'s head into the ground and said that she did not remember officers ever being on top of § 87(2)(b) at any time.

§ 87(2)(b) does not know § 87(2)(b) and has not seen him since this incident.

Multiple attempts were made to obtain contact information for § 87(2)(b) though § 87(2)(b) was never able to provide a telephone number or an address for him. Therefore, a statement was not obtained from § 87(2)(b).

Attempts to contact § 87(2)(b) were made at § 87(2)(b). However, a statement was not obtained because of doctor/patient confidentiality.

### Officer Statements

Sgt. Joaquin Morales

On December 27, 2005, Sgt. Joaquin Morales was interviewed as a subject officer at the CCRB. On June 14, 2005, Sgt. Morales worked a tour of 14:55 x 23:35. He was assigned to anti crime as well as the patrol supervisor. He was partnered with PO Corey Jones and was assigned to an unmarked silver Impala.

Sgt. Morales had no memo book entries pertaining to this incident

According to Sgt. Morales, he and PO Jones were driving northbound on Park Avenue when he saw a vehicle stopped at a green light. The vehicle was running, so he honked the horn, but when the vehicle did not move, he pulled along side of it to find someone leaning forward toward the steering wheel. Sgt. Morales said they honked again, though there was still no response. Sgt. Morales said he then exited the vehicle and tapped on the window, and when there was no response again, he attempted to open the door, which he noticed was open. Sgt. Morales tried to shake the person by his shoulders to see if anything was wrong. When there was no response, Sgt. Morales shook the person, later determined to be § 87(2)(b) a little harder, at which point § 87(2)(b) woke up cursing and swinging his arms, causing Sgt. Morales to move away from the vehicle. Sgt. Morales said that he feared for his safety since he did not know if § 87(2)(b) was drunk or high and regarded him as an emotionally disturbed person. Sgt. Morales then went toward the sidewalk where PO Jones had been standing as § 87(2)(b) exited his vehicle. Once on the sidewalk, Sgt. Morales called for backup and an ambulance. Sgt. Morales said that § 87(2)(b) was cursing, spitting, kicking and punching as if he were doing karate moves, and he and PO Jones maintained their distance from him.

Sgt. Morales stated that he and PO Jones waited for the EMTs to arrive before attempting to physically control § 87(2)(b) and although other officers were present, Sgt. Morales did not know who or how many officers there were, though it was likely that multiple officers were needed to control § 87(2)(b). In order to gain compliance, Sgt. Morales said that he dove for § 87(2)(b)'s legs because he was kicking and swinging his arms. PO Jones grabbed him from the top in an attempt to control the upper part of § 87(2)(b)'s body. Sgt. Morales said that he put his arms around § 87(2)(b)'s shins, hugged them and pulled them to get § 87(2)(b) down to the ground. Sgt. Morales was not sure if § 87(2)(b) landed face up or face down when he fell, and said that § 87(2)(b) continued to resist as he was kicking away. § 87(2)(b) was handcuffed on the ground, though Sgt. Morales could not say by whom or at what point that occurred. EMTs, however, put straps around § 87(2)(b)'s legs, as Sgt. Morales maintained control and PO Jones handled the upper part of the body. After § 87(2)(b) was strapped down, he still attempted to fight. PO Jones,

Sgt. Morales and the EMTs all picked up him up by his legs, placed him on a stretcher and removed him to the hospital. On the stretcher, § 87(2)(b) continued to scream, though Sgt. Morales was not sure what he was saying. Sgt. Morales did not go to the hospital nor did PO Jones, and he did not know which hospital they went to.

Sgt. Morales stated that at one point a man arrived and said that he knew § 87(2)(b) and tried to get § 87(2)(b) to listen to the police. Sgt. Morales was not sure when that friend arrived. § 87(2)(b) wanted his friend to take his car, so Sgt. Morales went inside the vehicle, which was still running, removed the keys and handed them to the friend. Sgt. Morales stated he did not remove any other property from the car, including § 87(2)(b)'s cell phone or charger.

Sgt. Morales said that § 87(2)(b) never complained to him that his handcuffs were too tight. Sgt. Morales said that he did not grab § 87(2)(b)'s wrists and did not attempt to pull his arms behind his back. He did not put his knee on § 87(2)(b)'s back and did not push his head into the ground. Sgt. Morales did not tell § 87(2)(b) to "shut up." He did not threaten him with pepper spray.

Officer Corey Jones

On January 5, 2006, PO Corey Jones was interviewed at the CCRB as a subject officer. On June 14, 2005 PO Corey Jones worked a tour of 15:00 x 23:35. He was assigned to anti-crime with Sgt. Joaquin Morales. He was in plainclothes and assigned to an unmarked vehicle.

PO Jones had no memo book entries pertaining to this incident.

PO Jones did not remember if there had been call placed over the radio or whether it was just an observed situation, but stated that he and Sgt. Morales were travelling north on Park Avenue when they approached a vehicle with a man slumped over the steering wheel. Both Sgt. Morales and PO Jones exited their vehicle. PO Jones went to the sidewalk, while Sgt. Morales tapped on the driver's seat window. When § 87(2)(b) did not wake up, Sgt. Morales opened the door, which was unlocked, and tapped § 87(2)(b) on the shoulder a couple of times, asking, "Sir, are you alright?" When § 87(2)(b) woke up, he started to swing his arms, so Sgt. Morales came on to the sidewalk. When § 87(2)(b) exited his vehicle, he walked toward the sidewalk where he seemed disoriented. PO Jones said that § 87(2)(b) was sweating, his eyes were large and looking around as if he did not know where he was; he and Sgt. Morales thought that he might have had a seizure or that he was an emotionally disturbed person, thus, Sgt. Morales called for an ambulance. § 87(2)(b) who was kicking in the air and swinging his arms in "karate-like" fashion, then began to approach PO Jones. At that point, Sgt. Morales grabbed § 87(2)(b) by the legs while PO Jones controlled the upper body causing them all to fall to the ground. PO Jones could not remember what § 87(2)(b) was saying, though he was screaming a little. PO Jones said that § 87(2)(b) appeared to be really "out of it" as he was breathing heavily and saliva was coming out of his mouth.

PO Jones stated that he believed the EMS had arrived when he and Sgt. Morales grabbed § 87(2)(b) and that he did not know how and where he specifically grabbed him. When he and Sgt. Morales were down on the floor, the two EMTs and a male and female officer from the 42<sup>nd</sup> Precinct assisted in controlling § 87(2)(b). PO Jones said that § 87(2)(b) was moving his body around, though he was not "wild." On the ground, PO Jones said that he pressed down upon § 87(2)(b)'s shoulders, but moved to assist Sgt. Morales after someone else came to help restrain the upper body. In order to restrain his legs, PO Jones said that he had one arm underneath § 87(2)(b)'s calves as he kneeled over § 87(2)(b). PO Jones could not see whether § 87(2)(b) was face down. PO Jones said that an EMT or another officer grabbed his leg by accident causing his knee to bleed. When that happened, PO Jones left to tend to his knee a couple of feet away. He did not see who handcuffed § 87(2)(b) and did not see if more than one pair of handcuffs was used. § 87(2)(b) was placed on a gurney and brought toward the ambulance. PO Jones did know who escorted him, and said that he never approached the ambulance and never went to the hospital.

During this incident, PO Jones said that a man who said he knew § 87(2)(b) approached the scene and someone, possibly Sgt. Morales or himself, told him to call for a relative. PO Jones did not know if this friend was present throughout the entire incident, but said that he did not see him again or have any other interaction with him.

PO Jones was not sure if he grabbed § 87(2)(b)'s right or left wrists. He did not pull § 87(2)(b)'s arms behind his back and did not push his knee on § 87(2)(b)'s back. He did not remember if § 87(2)(b) complained that the handcuffs were too tight. He said that he did not push § 87(2)(b)'s head into the ground. PO Jones said the he did not tell § 87(2)(b) or his friend to "shut up" and did not threaten § 87(2)(b) with pepper spray. He said that he never removed § 87(2)(b)'s cell phone or phone charger from his vehicle.

PO David Bailey

On June 14, 2005 PO David Bailey worked a tour of 14:15 x 22:50 and was assigned to conditions. His partner was PO Rodriguez, though Lt. Juan Arguinzoni was in the vehicle too. He was in uniform and assigned to motor vehicle # 5113.

PO Bailey had no memo book entries pertaining to this incident.

PO David Bailey did not respond to this location. He had no knowledge of this incident. He said that he did not interact with a male who was seemingly disoriented and had to go to the hospital.

According to his memo book he was at Prospect Avenue and Jennings Street at 5:24 and resumed patrol at 5:35.

PO Ruben Alvarez

On June 14, 2005, at approximately 5:35PM, PO Ruben Alvarez worked a tour of 15:00 x 23:35. He was partnered with PO Odaliza Alcantara, but did not have his memo book with him so he could not remember his assignment or whether he was in a vehicle or on foot.

PO Alvarez was unable to locate his memo book and thus, did not have it with him.

PO Ruben Alvarez did not remember this incident. PO Alvarez did not remember responding to the location. After being given a brief description of the incident, he still did not remember anything. Upon viewing a photo of § 87(2)(b) PO Alvarez said that the man did not look familiar. PO Alvarez did not remember if he went to § 87(2)(b) or if he was involved in any incident where a man had to go to the hospital that day. He did not remember encountering an emotionally disturbed person or disoriented man that day. He did not remember having to restrain anyone. He said that he did not work with Sgt. Morales and PO Jones and that their names did not sound familiar. He did not remember physically or verbally interacting with § 87(2)(b).

PO Claudio Almonte

On April 3, 2006, PO Claudio Almonte was interviewed at the CCRB as a possible subject officer. On June 14, 2005, PO Claudio Almonte worked a 4x12 tour with PO Cruz. He was assigned to sector patrol A, was in uniform and in a marked police vehicle.

*Memo Book Entry:* 1735 85 Housing Crime Sergeant, EDP Claremont and Park Ave 18:20 97 H § 87(2)(b)

PO Almonte stated that he responded to the location because of a call that Sgt. Morales placed for non-emergency assistance. When PO Almonte arrived he said that there were approximately six to eight officers, including Sgt. Morales, PO Jones, and possibly "PO Minnow." There were also EMTs and an ambulance on site. He said that § 87(2)(b) was handcuffed lying back on the stretcher and



screaming incoherently. PO Almonte did not hear the officers say anything to him as he was put into the ambulance immediately. PO Almonte traveled inside the ambulance with § 87(2)(b) as PO Cruz followed in the patrol car. Inside the ambulance, § 87(2)(b) continued to yell on and off and also moved his body back and forth on the stretcher.

PO Almonte did not see any injuries on § 87(2)(b). He never physically interacted with him and did not see any other officer do so. He did not see § 87(2)(b)'s friend, § 87(2)(b) at the location. He did not approach § 87(2)(b)'s vehicle and did not see any officer do so. He did not threaten § 87(2)(b) with pepper spray and never saw any officer do that.

PO Sylvia Cruz

On April 3, 2006, PO Sylvia Cruz was interviewed at the CCRB as a possible subject officer. On June 14, 2005, PO Sylvia Cruz worked a tour of 4x12 with PO Almonte. She was assigned to sector patrol A, was in uniform and a marked police vehicle.

Memo Book Entry: 14:35 85 Crime Sgt. A Claremont/Park regards to EDP for transport 18:20 97 H to § 87(2)(b) Sgt. Morales orders to follow the Bus

PO Cruz stated that she and PO Almonte responded to the location because Sgt. Joaquin Morales called them to respond and transport an EDP, later determined to be § 87(2)(b) to the hospital. When PO Cruz arrived at the location, there were about ten to eleven officers in both plainclothes and uniforms. § 87(2)(b) was handcuffed on the stretcher and in the process of being placed into the ambulance. PO Cruz said that § 87(2)(b) was screaming, though no officers responded. She stated that she never spoke to § 87(2)(b) and never heard him complaining about his handcuffs being too tight. PO Cruz stated that the other officers at the location were from the 42<sup>nd</sup> Precinct, and she did not know any of them. She did not see any injuries on § 87(2)(b). She did not physically interact with § 87(2)(b) and did not see any officer do so. She did not hear any officer tell § 87(2)(b) to "shut up." She did not go toward § 87(2)(b)'s vehicle nor did she see any officer approach it. She did not see an officer threaten him with pepper spray.

#### Officer Identification

Sgt. Joaquin Morales, PO Corey Jones, PO Claudio Almonte and PO Sylvia Cruz were all identified through the SPRINT.

#### Medical Records

§ 87(2)(b)'s medical records do not indicate any major physical injuries. However he did have small abrasions on his right elbow and on his left wrist. He had no deformities, no bruising and no tenderness. He was hypoglycemic (having abnormally low blood sugar) and discharged after he was given juice and a sandwich.

The Ambulance Call Reports also do not denote any physical injuries. They do, however, report that § 87(2)(b) was uncooperative and argumentative and struggling to break his restraints.

#### Police Documents

The SPRINT states that a female caller said that a male was passed out inside his vehicle and that he later went to § 87(2)(b).

#### Criminal Complainant History

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### Officer History

As of the date of this report, Sgt. Morales and PO Jones do not have any substantiated CCRB allegations.

### Undisputed Facts

The undisputed facts in this case are that while § 87(2)(b) was in his vehicle, he was stopped by officers who used force in order to restrain him. It is also clear that § 87(2)(b) went to § 87(2)(b) § 87(2)(b)

### Facts in Dispute

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

### Credibility

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

§ 87(2)(g) Both Sgt. Morales and PO Jones admitted to using force to restrain § 87(2)(b). Additionally, according to § 87(2)(b), § 87(2)(g) § 87(2)(b) came out of his vehicle swinging his arms, which supports the officers' claims and necessitates force. Although Sgt. Morales claimed that PO Jones controlled § 87(2)(b)'s arms, PO Jones claimed that he moved from the upper body to assist Sgt. Morales with the legs. Neither officer could recall the additional officers involved and their role in the incident. Also, both Sgt. Morales and PO Jones stated that they waited for EMS to arrive before using force, though all of the EMTs said that § 87(2)(b) was already handcuffed when they arrived. § 87(2)(b) also added that there were only two or three officers involved in restraining § 87(2)(b) § 87(2)(g)

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g) Additionally, the Ambulance Call Reports both state that § 87(2)(b) was agitated, upset and loud. PO Almonte also stated that § 87(2)(b) continued to yell after being placed in the ambulance. § 87(2)(g)

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)



Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: